

#59

**Item(s) to Set Public Hearing(s)**  
**CITY OF AUSTIN**

**AGENDA**  
**DATE: 4/20/2006**

**RECOMMENDATION FOR**  
**COUNCIL ACTION**

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**Subject:** Set a public hearing on an appeal by Dale Bulla, Vice-President, 2222 Coalition of Neighborhood Associations, Inc. (2222 CONA), of the Zoning and Platting Commission's decision to approve an extension of a released site plan, under LDC 25-5-63 (C), Champion Commercial SPC-05-0012A, located at 6015 N. Capitol of Texas Highway. (Suggested date and time: April 27, 2006, at 6:00 p.m., Austin City Hall Council Chambers, 301 West Second Street.)

**Amount and Source of Funding:**

**Fiscal Note:** There is no unanticipated fiscal impact. A fiscal note is not required.

**Requesting Department:** WPDR

**For More Information:**

**Prior Council Action:**

**Boards and Commission Action:** November 1, 2005 - Zoning and Platting Commission: Approval of Hill Country Roadway site plan 9-0 (3 year expiration - November 1, 2008); January 17, 2006 - Zoning and Platting Commission: Approval of Extended Phasing for an approved site plan 7-0 (Phase One - 5 years, expiration date November 1, 2010. Phase Two - 10 Years, expiration date November 1, 2015).

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November 1, 2005: City staff recommended approval of a site development permit for Champion Commercial, a proposed development within a Hill Country Roadway Corridor (land use only). The Zoning and Platting Commission granted the approval. The project met all applicable regulations including regulations set forth per the Settlement Agreement (Ordinance No. 96-0613-J).

January 17, 2006: City staff recommended approval of a request by the applicant under the Land Development Code # 167;25-5-63 (C) for an extended phasing plan – extension of a released site plan (5 years for Phase One, and 10 years for Phase Two) for the Champion Commercial site plan that had been approved (for 3 years) by the Zoning and Platting Commission previously on November 1, 2005. The Zoning and Platting Commission approved the extension of the released site plan.

The Land Development Code (LDC 25-5-149) allows for Land Use Commission approval or denial of a site plan to be appealed by interested parties to the City Council.

Dale Bulla, Vice-President, 2222 CONA, is appealing the Zoning and Platting Commission's decision to approve an extension of a released site plan. Please see attached documents.

**ZONING & PLATTING COMMISSION SITE PLAN**  
**Extended Phasing Request Only**  
**REVIEW SHEET**

**CASE NUMBER:** SPC-05-0012A      **COMMISSION DATE:** November 1, 2005  
January 17, 2006

**ADDRESS:** 6015 N. Capital of Texas Highway

**WATERSHED:** Bull Creek (Water Supply Suburban)

**AREA:** 9.201 Acres

**EXISTING ZONING:** GR-CO, RR

**PROJECT NAME:** Champion Commercial Development

**PROPOSED USE:** The proposed development consists of construction of two commercial/retail buildings, all associated parking, drives, utilities, and a full sedimentation/filtration pond.

**APPLICANT:** Champion Assets, Ltd. (Josie Champion)  
6700 Lakewood Drive  
Austin, Texas 78731 Ph: 512-345-1777

**AGENT:** Michael Whellan  
Graves, Dougherty, Hearon & Moody  
401 Congress Avenue, Suite 2200  
Austin, Texas 78701  
512-480-5734

Hanrahan-Pritchard Engineering, Inc. (Steven R. Jamison, P.E.)  
8333 Cross Park Drive  
Austin, TX 78754 Ph: 512-459-4734

**NEIGHBORHOOD ORGANIZATION:**  
#742 Austin Independent School District  
#511 Austin Neighborhoods Council  
#475 Bull Creek Foundation  
#439 Concerned Citizens For P&B of FM 2222  
#434 Lake Austin Business Owners  
#426 River Place Residential Community Assn., Inc.  
#157 Courtyard Homeowner Assn.  
#53 Northwest Austin Civic Association

**APPLICABLE WATERSHED ORDINANCE:** Per Compromise Settlement Agreement  
ORDINANCE NO. 96-0613-J

**CAPITOL VIEW:** Not applicable

**T.I.A.:** The TIA has been waived as this site is subject to all conditions of the original TIA and restrictive covenant.

**SUMMARY STAFF RECOMMENDATION FOR EXTENDED PHASING REQUEST:**

This Hill Country Roadway case was approved by Commission on November 1, 2005 for land use only. Currently, the plan (as approved) would have a three (3) year expiration date. The applicant is requesting extended phasing at this time. The applicant would like the expiration date extended for 5 years for Phase I, and 10 years for Phase II.

Please see attached letter from applicant justifying extended phasing request.

**Zoning and Platting Commission Action:**

November 1, 2005 – Commission approved the Hill Country Roadway Site Plan for land use only.

January 17, 2006 – Request for approval of extended phasing.

**CASE MANAGER:** Kathy Haught  
**E-MAIL:** Kathy.haught@ci.austin.tx.us

**PHONE:** 512-974-2724

**PROJECT INFORMATION:**

|   |  |
|---|--|
| <b>Total square footage:</b>                  | 42,465 s.f.  |
| <b>Building/ Structure Use:</b>               | general retail / convenience store   |
| <b>Height/ Stories Allowed:</b>               | 60 ft. (per Lake Austin Watershed Ordinance)                               |
| <b>Height/ Stories Proposed:</b>              | Building #1: 60' max. / One Story<br>Building #2: 55.5' max. / Two Stories |
| <b>Minimum Required Parking:</b>              | 200 regular spaces/ 7 handicap spaces = 207 total                          |
| <b>Parking Provided:</b>                      | 201 regular spaces/ 7 handicap spaces = 208 total                          |
| <b>Maximum F.A.R. Allowed:</b>                | 0.30 : 1   |
| <b>F.A.R. Proposed:</b>                       | 0.142 : 1  |
| <b>Allowed Impervious Cover:</b>              | 50% of Net Site Area   |
| <b>Proposed Impervious Cover:</b>             | 41.3% of Net Site Area   |
| <b>Minimum Required HC Natural Area:</b>      | 40%  |
| <b>HC Natural Area Provided:</b>              | 40%  |
| <b>Proposed Access:</b> Loop 360 and R M 2222 |  |

**Subdivision status:** 9.201 Ac. Recorded in Doc. # 2001143485 of the Travis County Records, more particularly described as: TRACT 4: 9.201 ACRE TRACT OF LAND OUT OF THE THOMAS JEFFERSON CHAMBERS GRANT, COMPRISED OF A CALLED 8.259 ACRE TRACT OF LAND AND A CALLED 0.942 ACRE TRACT OF LAND, BOTH CONVEYED TO CHAMPION ASSETS LTD., CHAMPION-MEIER ASSETS LTD. & CHAMPION LEGACY PARTNERS L.P. AND BEING THE SAME PROPERTY DESCRIBED IN THAT CERTAIN RESTRICTIVE COVENANT OF

**SUMMARY COMMENTS ON SITE PLAN:**

**Previous Zoning and Platting Commission Approval:** ZAP approved this case as a Hill Country Roadway site plan, Part A (Land Use Only) previously on November 1, 2005.

**Land Use:** The 9.201-acre Champion Commercial Development project is located at the southeast corner of the intersection of Loop 360 and RM 2222. This tract is located in the City of Austin corporate limits, (zoned GR-CO & RR), and within Travis County. The site is currently vacant. The intent of this project is to construct two commercial/retail buildings, all associated parking, drives, utilities, and a full sedimentation/filtration pond.

**Settlement Agreement:** There is a settlement agreement associated with this project. This tract shall be developed, constructed and maintained in conformance with the terms and conditions of the settlement agreement (ORD. NO. 96-0613-J).

**Environmental:** This project is not subject to the Comprehensive Watershed Ordinance. This project is within the Bull Creek watershed, is classified as Water Supply Suburban. No portion of this tract is located within the Edward's Aquifer Recharge Zone. An on-site full sedimentation/filtration pond will provide water quality control for the site. RSMP participation has been approved by the Watershed Engineering Division for this project. An administrative variance from LDC Section 25-8-341 *Cut Requirements* to allow cut in excess of 4-feet, (in the water quality facility), has also been approved for this project.

**SURROUNDING CONDITIONS:**

**Zoning/ Land Use**

**North:** ROW (R M 2222), then GR-CO (Commercial Use)  
**East:** P (Fire Station)  
**South:** PUD (Drainage Easement/Vacant)  
**West:** ROW (Loop 360)

| <u>Street Name</u> | <u>ROW</u> | <u>Pavement</u> | <u>Classification</u> |
|--------------------|------------|-----------------|-----------------------|
| Loop 360           | varies     | 2 @ 24 ft.      | Major Arterial        |
| R M 2222           | varies     | 48 ft.          | Major Arterial        |

**ZONING & PLATTING COMMISSION SITE PLAN**  
**HILL COUNTRY SITE PLAN (Land Use Only)**  
**REVIEW SHEET**

**CASE NUMBER:** SPC-05-0012A      **COMMISSION DATE:** November, 1 2005

**ADDRESS:** 6015 N. Capital of Texas Highway

**WATERSHED:** Bull Creek (Water Supply Suburban)

**AREA:** 9.201 Acres

**EXISTING ZONING:** GR-CO, RR

**PROJECT NAME:** Champion Commercial Development

**PROPOSED USE:** The proposed development consists of construction of two commercial/retail buildings, all associated parking, drives, utilities, and a full sedimentation/filtration pond.

**APPLICANT:** Champion Assets, Ltd. (Josie Champion)  
6700 Lakewood Drive  
Austin, Texas 78731 Ph: 512-345-1777

**AGENT:** Hanrahan-Pritchard Engineering, Inc. (Steven R. Jamison, P.E.)  
8333 Cross Park Drive  
Austin, TX 78754 Ph: 512-459-4734

**NEIGHBORHOOD ORGANIZATION:**  
#742 Austin Independent School District  
#511 Austin Neighborhoods Council  
#475 Bull Creek Foundation  
#439 Concerned Citizens For P&B of FM 2222  
#434 Lake Austin Business Owners  
#426 River Place Residential Community Assn., Inc.  
#157 Courtyard Homeowner Assn.  
#53 Northwest Austin Civic Association

**APPLICABLE WATERSHED ORDINANCE:** Per Compromise Settlement Agreement  
ORDINANCE NO. 96-0613-J

**CAPITOL VIEW:** Not applicable

**T.I.A.:** The TIA has been waived as this site is subject to all conditions of the original TIA and restrictive covenant.

**SUMMARY STAFF RECOMMENDATION FOR HCRC SITE PLAN:**  
Staff recommends approval of this HCRC Site Plan. This site plan is for land use only. This site plan complies will be in compliance with all other applicable regulations prior to release of permit.

**Zoning and Platting Commission Action:** November 1, 2005

**CASE MANAGER:** Kathy Haught

**PHONE:** 512-974-2724

**E-MAIL:** Kathy.haught@ci.austin.tx.us

**PROJECT INFORMATION:**

**Total square footage:** 42,465 s.f.  
**Building/ Structure Use:** general retail / convenience store

**Height/ Stories Allowed:** 60 ft. (per Lake Austin Watershed Ordinance)  
**Height/ Stories Proposed:** Building #1: 60' max. / One Story  
Building #2: 55.5' max. / Two Stories

**Minimum Required Parking:** 200 regular spaces/ 7 handicap spaces = 207 total  
**Parking Provided:** 201 regular spaces/ 7 handicap spaces = 208 total

**Maximum F.A.R. Allowed:** 0.30 : 1  
**F.A.R. Proposed:** 0.142 : 1

**Allowed Impervious Cover:** 50% of Net Site Area  
**Proposed Impervious Cover:** 41.3% of Net Site Area

**Minimum Required HC Natural Area:** 40%  
**HC Natural Area Provided:** 40%

**Proposed Access:** Loop 360 and R M 2222

**Subdivision status:** 9.201 Ac. Recorded in Doc. # 2001143485 of the Travis County Records, more particularly described as: TRACT 4: 9.201 ACRE TRACT OF LAND OUT OF THE THOMAS JEFFERSON CHAMBERS GRANT, COMPRISED OF A CALLED 8.259 ACRE TRACT OF LAND AND A CALLED 0.942 ACRE TRACT OF LAND, BOTH CONVEYED TO CHAMPION ASSETS LTD., CHAMPION-MEIER ASSETS LTD. & CHAMPION LEGACY PARTNERS L.P. AND BEING THE SAME PROPERTY DESCRIBED IN THAT CERTAIN RESTRICTIVE COVENANT OF RECORD IN VOLUME 11688, PAGE 797 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS. LAND STATUS DETERMINATION: LSD-C8I-87-023

**SUMMARY COMMENTS ON SITE PLAN:**

**Land Use:** The 9.201-acre Champion Commercial Development project is located at the southeast corner of the intersection of Loop 360 and RM 2222. This tract is located in the City of Austin corporate limits, (zoned GR-CO & RR), and within Travis County. The site is currently vacant. The intent of this project is to construct two commercial/retail buildings, all associated parking, drives, utilities, and a full sedimentation/filtration pond.

**Environmental:** There is a settlement agreement associated with this project. This tract shall be developed, constructed and maintained in conformance with the terms and

conditions of the settlement agreement (ORD. NO. 96-0613-J). This project is not subject to the Comprehensive Watershed Ordinance.

This project is within the Bull Creek watershed, is classified as Water Supply Suburban. No portion of this tract is located within the Edward's Aquifer Recharge Zone. An on-site full sedimentation/filtration pond will provide water quality control for the site. RSMP participation has been approved by the Watershed Engineering Division for this project. An administrative variance from LDC Section 25-8-341 *Cut Requirements* to allow cut in excess of 4-feet, (in the water quality facility), has also been approved for this project.

**SURROUNDING CONDITIONS:**

**Zoning/ Land Use**

**North:** ROW (R M 2222), then GR-CO (Commercial Use)  
**East:** P (Fire Station)  
**South:** PUD (Drainage Easement/Vacant)  
**West:** ROW (Loop 360)

| <u>Street Name</u> | <u>ROW</u> | <u>Pavement</u> | <u>Classification</u> |
|--------------------|------------|-----------------|-----------------------|
| Loop 360           | varies     | 2 @ 24 ft.      | Major Arterial        |
| R M 2222           | varies     | 48 ft.          | Major Arterial        |



**CHAMPION COMMERCIAL DEVELOPMENT**  
**SITE PLAN APPEAL OVERVIEW**  
**SPC-05-0012A**

**Proposed Development:**

The applicant proposed to construct two commercial/retail buildings, parking, drives, utilities, and a full sedimentation/filtration pond.

This project is in the City of Austin Full Purpose City limits and is located in the Hill Country Roadway Corridor at the southeast corner of RM 2222 and Capital of Texas Highway.

The site development permit was approved by Zoning and Platting Commission on November 1, 2005, with a 3 year expiration (expiration date 11-1-2008).

Extended phasing for the approved site development plan was approved by Zoning and Platting Commission January 17, 2006.

The new expiration date for Phase I is 11-1-2010; and Phase II: 11-1-2015.

**Appellant Request:**

An appeal was filed by Dale Bulla, 2222 CONA appealing "approval of a site plan" January 20, 2006.

**Development Information:**

This project is subject to a Compromise Settlement Agreement (Ordinance No.96-0613-J), therefore, is not subject to the Comprehensive Watershed Ordinance. All other elements of the plan comply with current Code.

**Staff Recommendation:**

Staff recommends denial of the appeal as plan is in compliance with LDC and the Compromise Settlement Agreement.

2222CONA requests that ZAP deny the requests for phased development with an extension of time to develop Tract 4, on the grounds that:

1. Questions regarding the legality of the 1996 CSA have not yet been resolved.
2. The TIA conducted for the Champions in 1998 did *not* consider this development on Tract 4 and has *not* been updated with current traffic conditions and assumptions. The plan for phased development for this tract does *not* provide solutions to mediate the traffic problems, as required by Section 25-5-21 of the Land Development Code.
3. The Champions have repeatedly complained that they are being punished for the traffic problems because they are "last in line" to develop, yet they do not act in good faith to develop their property.
4. Phasing the development on this 9-acre tract is not logical with the shared water quality controls and parking, and will exacerbate the disruption to the surrounding FM2222 and Loop 360 roadways and neighborhoods.
5. With the request of this extension the Champions are just delaying the posting of fiscal security while preserving their Special Exemptions and ability to modify the minimal, incomplete site plan that has been submitted.
6. Extending the expiration dates for this Site Plan gives unfair advantage to the Champions as they wait to see what other developers might do. "Allowing the development to respond to market conditions" is *not* a reasonable need for the requested phasing and extension.
7. The Champions have been in violation of their TCEQ Conditional Permit relating to cleanup of lead shot on Tract 1 since at least summer 2005. Lead shot is accumulating in Bull Creek, the watershed in which Tract 4 also is located.

Dear Council:

2222 CONA requests reversal by the City Council of the Zoning and Planning Commission (ZAP) decision on January 17, 2006 to allow phasing and extension of the Site Plan for Champion Tract 4 (SPC-05-0012A). This case requested and received approval to phase the development and extend the deadlines for five (5) and ten (10) years on the two phases. Although there was public comment and conflicting information provided by the applicant and public during the 17 January 2006 hearing, the Commission had no discussion of the issues and provided no reasoning for its approval of this request. This case deserves a review by City Council:

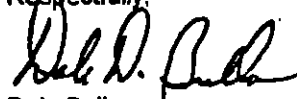
This property is subject to a Special Exception Ordinance No 960613-J granting it special development rights to develop the property subject to the 1984 Lake Austin Watershed Ordinance instead of current development restrictions. The period of this special exemption is 10 years, beginning in 1996. The applicant has chosen to not develop this property in this 10 year period, and now wants the special exemptions to be extended for another five (5) and ten (10) years.

The applicant has no right to this prolonged extension and there are no compelling reasons why this special exemption should be extended. The applicant had ten years since 1996 to develop the tract under obsolete regulations which threaten health and public safety. Development under the 1984 Lake Austin Watershed Ordinance threatens Bull Creek, which is adjacent to this tract and which contributes to Austin's municipal water supply. The City should not in any way facilitate the development of this tract under obsolete regulations.

Please do not continue to extend the benefits and special exceptions that the Champions have been granted by suing the City of Austin. The City Charter requires the City to act in the best interests for the health and safety of the public, and the City must insist that developers comply with the codes and ordinances that are enacted to do just that. Please review the request that was approved by the ZAP on 17 January 2006 and DENY the request to extend the expiration dates for the Site Plan for Champion Tract 4 SPC-05-0012A. The partial Site Plan has not even received final approval and it is inappropriate to extend the deadline at this time.

The attached Background Material provides additional information.

Respectfully,



Dale Bulla  
Vice-President, 2222 CONA  
Director, Jester Estates Board of Directors  
7202 Foxtree Cove  
Austin, TX 78750

## Background Material

On 9 December 1993 the City Council passed Ordinance No. 931209-H, declaring that "...an emergency exists concerning the safe, orderly, and healthful growth of the City." It required that the Ordinance be effective immediately upon its passage as required by the emergency and as provided by the City Charter "To assure the immediate preservation of the public peace, health, and safety...". This Ordinance was an emergency measure to protect the Bull Creek and West Bull Creek Watersheds, which contribute to our suburban drinking water supply.

On 13 June 1996 the City passed Special Exception Ordinance No 960613-J which granted special exceptions to the Champion tracts that were affected by the 1996 ordinance, allowing them to instead develop the property under the 1984 Lake Austin Watershed Ordinance if they took advantage of this special exception by commencing the development within 10 years. Failure to take advantage of the special exception benefits within the specified times required that the development be governed by the current code in effect at the time the development application is filed.

During many requests to rezone their property for more intense land use the Champion interests claim they are being punished for the traffic problems because they are "last in line" to develop, yet they do not act in good faith to develop their property. The Site Plan for this Tract 4 is just now undergoing approval and has been divided into two "parts" to avoid providing all the required details while technically meeting the terms of the Compromise Settlement Agreement enacted by Ordinance 960613-J by filing a Site Plan before June 2006. The Site Plan for this tract would not expire according to the standard Land Development Code process until sometime in 2008 (depending on final approval date). Why is it in the best interests of the City and the public to grant another extension at this time, extending the special exception benefits through 2016, and allowing this property to be developed under watershed protection rules that will then be more than 30 years old? The City declared an emergency in 1993 to improve the water quality controls for the health and safety of the public and it is no less important in 2006.

The TIA conducted for the Champions in 1998 did not consider this development on Tract 4 and has not been updated with current traffic conditions and assumptions. The plan for phased development for this tract does not provide solutions to mediate the traffic problems, as required by Section 25-5-21 of the LDC, and the 1998 TIA data and assumptions will only become more obsolete and the traffic issues more severe as time goes by. (The 1998 TIA for Tracts 1 and 2 is based on conditions that existed eight years ago and an assumption that the development of Tracts 1 and 2 would be completed by 2003, all of which is now completely obsolete.)

The applicant stated in the Request for Phasing and Extended Expiration that the reason to phase and extend the development is to "allow the development to respond to market conditions over different periods of time." The Site Plan reflects delaying one building with 8,100 SF Retail located in the middle of the parking lot to Phase 2 of the development. With Retail zoning the applicant already has much flexibility in responding to market conditions with the mix of retail, and the phasing of this small parcel of the property will only exacerbate the disruption to the surrounding FM2222 and Loop 360 roadways and neighborhoods with ongoing construction activities.

In requests for more intense zoning the applicant justifies that "market forces" are driving them to dense land use, yet they are asking for an inordinate amount of time to execute on a Site Plan so they can "respond to market conditions over different periods of time." These "market forces" are nebulous and do not justify a reasonable need.



**GRAVES DOUGHERTY HEARON & MOODY**  
A PROFESSIONAL CORPORATION

Michael J. Whellan  
512.480.5734  
512.480.5834 (fax)  
mwhellan@gdhm.com

MAILING ADDRESS:  
P.O. Box 98  
Austin, TX 78767

October 28, 2005

Via Regular Mail and E-mail  
Ms. Betty Baker  
Chair, Zoning and Platting Commission  
City of Austin  
P.O. Box 1088  
Austin, Texas 78701

RE: Request for (i) Phasing of Site Plan and (ii) Extended Expiration of the Site Plan to Five (5) and Ten (10) Years After the Site Plan is Approved -  
Champion Commercial Development (the "Project"), 6015 N. Capital of Texas Highway, Austin, Travis County, Texas; Case Number SPC-05-0012A.

Dear Chair Baker:

In conjunction with the submittal of the Site Plan, SPC-05-0012A, (the "Site Plan") for the Project, the Applicant has filed a request for phasing of the Site Plan and also seeks an extended expiration of the Site Plan, pursuant to Section 25-5-21 of the City of Austin Land Development Code (the "Code").

At this time, we request: (i) approval of phasing of the Site Plan for the Project; and (ii) approval of commencement of the first phase of the development to not later than five (5) years, and the commencement of the last phase of the development to not later than ten (10) years, after approval of the site plan by the Zoning and Platting Commission. The Project includes two commercial buildings with different potential users. The Site Plan is phased to allow the development to respond to market conditions over different periods of time.

In addition to accommodating the timing of the Project to market conditions, there are many practical reasons for extending the expiration date. First, the property is subject to a Compromise Settlement Agreement between the City of Austin and the Champion Family dated June 27, 1996, which fixes the regulations applicable to the Project. Thus, the applicable regulations for this property will not change in the future – even if the Site Plan expires. Therefore, no reason exists to require prematurely the re-submission of a new plan that would be identical to (and subject to the same regulations as) this Site Plan.

Second, as you and other Commissioners are well aware, the process to prepare a Site Plan requires time and money. If another Site Plan has to be sought, both the City and Champion family will incur unnecessary expenditures of time and expense. Under the circumstances, we believe that it is reasonable and fair to approve an extended expiration of the phasing of the Site Plan of five (5) and ten (10) years, especially since the regulations applicable to the Project are fixed.

October 28, 2005  
Page 2

If you have any questions or need additional information regarding this request, please do not hesitate to contact me at 480-5734.

Very truly yours,



Michael J. Whellan

MJW/kla

cc: Ms. Josie Ellen Champion  
Ms. Alma Juanita Champion Meier  
Ms. Mary Margaret Champion Roberson  
Mr. Joe Pantaloni, Director (via e-mail)  
Ms. Tammie Williamson (via e-mail)  
Ms. Kathy Haught (via e-mail)



City of Austin Watershed Protection and Development Review Department  
505 Barton Springs Road / P.O. Box 1088 / Austin, Texas 78767-8835

**SITE PLAN APPEAL**

If you are an applicant and/or property owner or interested party, and you wish to appeal a decision on a site plan application, the following form must be completed and filed with the Director of Watershed Protection and Development Review Department, City of Austin, at the address shown above. The deadline to file an appeal is 14 days after the decision of the Planning Commission, or 20 days after an administrative decision by the Director. If you need assistance, please contact the assigned City contact at (512) 974-2680.

CASE NO. SPC-05-0012A

DATE APPEAL FILED January 30, 2006

PROJECT NAME Champion Commercial  
Development

YOUR NAME Dale Bulla

SIGNATURE Dale D. Bulla

PROJECT ADDRESS 6015 N. Capital Of Texas  
Hwy., Bull Creek Watershed

YOUR ADDRESS 7202 Foxtree Cove  
Austin, TX 78750

APPLICANT'S NAME Champion Assets. Ltd.  
(Josie Champion)

YOUR PHONE NO. (512) 345-9528      WORK  
(512) 345-9528      HOME

CITY CONTACT Kathy Haught

**INTERESTED PARTY STATUS:** Indicate how you qualify as an interested party who may file an appeal by the following criteria: (Check one)

- ☐ I am the record property owner of the subject property
- ☐ I am the applicant or agent representing the applicant
- ☒ I communicated my interest by speaking at the Planning Commission public hearing on (date) 1/17/06.
- ☐ I communicated my interest in writing to the Director or Planning Commission prior to the decision (attach copy of dated correspondence).

**In addition to the above criteria, I qualify as an interested party by one of the following criteria: (Check one)**

- ☐ I occupy as my primary residence a dwelling located within 500 feet of the subject site.
- ☐ I am the record owner of property within 500 feet of the subject site.
- ☐ I am an officer of a neighborhood or environmental organization whose declared boundaries are within 500 feet of the subject site.

**DECISION TO BE APPEALED\*:** (Check one)

- |   |   |
|---|---|
| <input type="checkbox"/> Administrative Disapproval/Interpretation of a Site Plan           | Date of Decision: <u>                    </u> |
| <input type="checkbox"/> Replacement site plan  | Date of Decision: <u>                    </u> |
| <input checked="" type="checkbox"/> Planning Commission Approval/Disapproval of a Site Plan | Date of Decision: <u>1/17/2006</u>            |
| <input type="checkbox"/> Waiver or Extension  | Date of Decision: <u>                    </u> |
| <input type="checkbox"/> Planned Unit Development (PUD) Revision                            | Date of Decision: <u>                    </u> |
| <input type="checkbox"/> Other: <u>                                    </u>                 | Date of Decision: <u>                    </u> |

\*Administrative Approval/Disapproval of a Site Plan may only be appealed by the Applicant.

**STATEMENT:** Please provide a statement specifying the reason(s) you believe the decision under appeal does not comply with applicable requirements of the Land Development Code:

See attached statement.

(Attach additional page if necessary.)

Applicable Code Section:

LDC 25-5-21, LDC 25-5-41, LDC 25-5-81

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Dear Council:

2222 CONA requests reversal by the City Council of the Zoning and Planning Commission (ZAP) decision on January 17, 2006 to allow phasing and extension of the Site Plan for Champion Tract 4 (SPC-05-0012A). This case requested and received approval to phase the development and extend the deadlines for five (5) and ten (10) years on the two phases. Although there was public comment and conflicting information provided by the applicant and public during the 17 January 2006 hearing, the Commission had no discussion of the issues and provided no reasoning for its approval of this request. This case deserves a review by City Council:

This property is subject to a Special Exception Ordinance No 960613-J granting it special development rights to develop the property subject to the 1984 Lake Austin Watershed Ordinance instead of current development restrictions. The period of this special exemption is 10 years, beginning in 1996. The applicant has chosen to not develop this property in this 10 year period, and now wants the special exemptions to be extended for another five (5) and ten (10) years.

The applicant has no right to this prolonged extension and there are no compelling reasons why this special exemption should be extended. The applicant had ten years since 1996 to develop the tract under obsolete regulations which threaten health and public safety. Development under the 1984 Lake Austin Watershed Ordinance threatens Bull Creek, which is adjacent to this tract and which contributes to Austin's municipal water supply. The City should not in any way facilitate the development of this tract under obsolete regulations.

Please do not continue to extend the benefits and special exceptions that the Champions have been granted by suing the City of Austin. The City Charter requires the City to act in the best interests for the health and safety of the public, and the City must insist that developers comply with the codes and ordinances that are enacted to do just that. Please review the request that was approved by the ZAP on 17 January 2006 and DENY the request to extend the expiration dates for the Site Plan for Champion Tract 4 SPC-05-0012A. The partial Site Plan has not even received final approval and it is inappropriate to extend the deadline at this time.

The attached Background Material provides additional information.

Respectfully,



Dale Bulla  
Vice-President, 2222 CONA  
Director, Jester Estates Board of Directors  
7202 Foxtree Cove  
Austin, TX 78750

## Background Material

On 9 December 1993 the City Council passed Ordinance No. 931209-H, declaring that "...an emergency exists concerning the safe, orderly, and healthful growth of the City." It required that the Ordinance be effective immediately upon its passage as required by the emergency and as provided by the City Charter "To assure the immediate preservation of the public peace, health, and safety...". This Ordinance was an emergency measure to protect the Bull Creek and West Bull Creek Watersheds, which contribute to our suburban drinking water supply.

On 13 June 1996 the City passed Special Exception Ordinance No 960613-J which granted special exceptions to the Champion tracts that were affected by the 1996 ordinance, allowing them to instead develop the property under the 1984 Lake Austin Watershed Ordinance if they took advantage of this special exception by *commencing* the development within 10 years. Failure to take advantage of the special exception benefits within the specified times required that the development be governed by the current code in effect at the time the development application is filed.

During many requests to rezone their property for more intense land use the Champion interests claim they are being punished for the traffic problems because they are "last in line" to develop, yet they do not act in good faith to develop their property. The Site Plan for this Tract 4 is just now undergoing approval and has been divided into two "parts" to avoid providing all the required details while technically meeting the terms of the Compromise Settlement Agreement enacted by Ordinance 960613-J by filing a Site Plan before June 2006. The Site Plan for this tract would not expire according to the standard Land Development Code process until sometime in 2008 (depending on final approval date). Why is it in the best interests of the City and the public to grant another extension at this time, extending the special exception benefits through 2016, and allowing this property to be developed under watershed protection rules that will then be more than 30 years old? The City declared an emergency in 1993 to improve the water quality controls for the health and safety of the public and it is no less important in 2006.

The TIA conducted for the Champions in 1998 did not consider this development on Tract 4 and has not been updated with current traffic conditions and assumptions. The plan for phased development for this tract does not provide solutions to mediate the traffic problems, as required by Section 25-5-21 of the LDC, and the 1998 TIA data and assumptions will only become more obsolete and the traffic issues more severe as time goes by. (The 1998 TIA for Tracts 1 and 2 is based on conditions that existed eight years ago and an assumption that the development of Tracts 1 and 2 would be completed by 2003, all of which is now completely obsolete.)

The applicant stated in the Request for Phasing and Extended Expiration that the reason to phase and extend the development is to "allow the development to respond to market conditions over different periods of time." The Site Plan reflects delaying one building with 8,100 SF Retail located in the middle of the parking lot to Phase 2 of the development. With Retail zoning the applicant already has much flexibility in responding to market conditions with the mix of retail, and the phasing of this small parcel of the property will only exacerbate the disruption to the surrounding FM2222 and Loop 360 roadways and neighborhoods with ongoing construction activities.

In requests for more intense zoning the applicant justifies that "market forces" are driving them to dense land use, yet they are asking for an inordinate amount of time to execute on a Site Plan so they can "respond to market conditions over different periods of time." These "market forces" are nebulous and do not justify a reasonable need.